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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	DA 95-374
	)	
Local Exchange Carriers' Rates,	)	
Terms, and Conditions for	)	
Expanded Interconnection Through	)	
Virtual Collocation for	)	
Special Access	)	CC Docket No. 94-97, Phase I
and Switched Transport	)	

ORDER DESIGNATING ISSUES FOR INVESTIGATION

Adopted: February 27, 1995; Released: February 28, 1995

By the Acting Deputy Chief, Common Carrier Bureau:

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I. INTRODUCTION

1. On December 9, 1994, the Common Carrier Bureau (Bureau) released the *Virtual Collocation Tariff Suspension Order*[1] which, *inter alia*, suspended for one day the permanent virtual collocation tariffs filed by the Tier 1 local exchange carriers (LECs)[2] listed in Appendix A,[3] initiated an investigation into the lawfulness of these tariffs, and imposed an accounting order. The Bureau also found it necessary to take immediate action regarding two key rate level issues -- the LECs' proposed overhead loadings and Bell Atlantic's proposed maintenance-related charges -- to prevent apparently excessive rates from taking effect during the Bureau's investigation of the LECs' tariffs. Pursuant to its authority under Section 204(a) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 204(a), the Bureau partially suspended for a five-month period those rates that appeared unreasonable. The Bureau also rejected certain patently unlawful terms and conditions imposed by several LECs, and ordered certain LECs to make other tariff revisions.

2. In this Order, the Bureau designates two rate level issues for the first phase of this investigation: (1) whether the overhead loadings established in the LECs' interim and permanent virtual collocation tariffs are justified; and (2) whether the maintenance-related charges in Bell Atlantic's interim and permanent virtual collocation tariffs are justified. We also establish a pleading cycle with respect to these two issues. The Bureau will designate additional issues for investigation and establish a separate pleading cycle for discussion of those issues in a subsequent designation order in Phase II of this docket.

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[1] Ameritech Operating Companies *et al.*, CC Docket No. 94-97, Order, DA 94-1421 (released Dec. 9, 1994) (*Virtual Collocation Tariff Suspension Order*).

[2] Tier 1 local exchange carriers are companies having annual revenues from regulated telecommunications operations of $100 million or more for a sustained period of time. Commission Requirements for Cost Support Material To Be Filed with 1990 Annual Access Tariffs, Order, 5 FCC Rcd 1364 (1990).

[3] Appendix A provides the full and abbreviated names of these LECs as used in this Order. Appendix B provides the full and abbreviated names of the petitioners as used in this Order.

II. BACKGROUND

A. In General

3. On July 25, 1994, the Commission released the *Virtual Collocation Order,*[4] which adopted virtual collocation as the basic architecture for providing expanded interconnection service.[5] The *Virtual Collocation Order* directed Tier 1 LECs, other than participants in National Exchange Carrier Association pools, to provide expanded interconnection for special access and switched access transport services through generally available virtual collocation arrangements.[6] The Commission exempted LECs from the mandatory virtual collocation requirement in central offices at which they choose to provide physical collocation as a communications common carrier service, subject to non-streamlined

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[4] Expanded Interconnection with Local Telephone Facilities, CC Docket No. 91-141, Memorandum Opinion and Order, 9 FCC Rcd 5154 (1994), *appeal docketed sub nom.,* Southwestern Bell Telephone Company v. F.C.C., Case No. 94-1547 (D.C. Cir. Aug. 10, 1994) (*Virtual Collocation Order*).

[5] Expanded interconnection service is a LEC offering that enables parties to compete on a facilities basis with certain LEC services by interconnecting their circuits with those of the LEC at the LEC central office. Expanded interconnection through a physical collocation arrangement is an offering that enables an interconnector to locate its own transmission equipment in a segregated portion of a LEC central office. Expanded interconnection through a virtual collocation arrangement enables an interconnector to terminate its circuits in central office transmission equipment that is owned (or leased) and under the exclusive physical control of the LEC. Under the Commission's virtual collocation rules, the interconnector has the right to designate its choice of central office equipment, which is dedicated to the exclusive use of the interconnector. The LEC installs, maintains, and repairs the dedicated equipment. The interconnector pays tariffed charges to the LEC for virtual collocation service. *See Virtual Collocation Order*, 9 FCC Rcd at 5158.

[6] *Virtual Collocation Order*, 9 FCC Rcd at 5156. The *Virtual Collocation Order* responded to the decision of the U.S. Court of Appeals for the D.C. Circuit in Bell Atlantic Telephone Companies v. F.C.C., 24 F.3d 1441 (D.C. Cir. 1994) (*Bell Atlantic v. F.C.C.*). In *Bell Atlantic v. F.C.C.*, the Court vacated in part the first two of the Commission's expanded interconnection Orders in CC Docket No. 91-141, wherein the Commission mandated expanded interconnection through physical collocation arrangements. The Court concluded that the Commission did not have authority under the Act to require LECs to provide expanded interconnection through physical collocation. *Bell Atlantic v. F.C.C.*, 24 F.3d at 1447 (*citing* Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd 7369 (1992), *recon.*, 8 FCC Rcd 127 (1992), *recon.*, 8 FCC Rcd 7341 (1993)).

regulation.[7] The *Virtual Collocation Order* required non-exempt LECs to file tariffs offering virtual collocation service on September 1, 1994, to be effective on December 15, 1994.[8]

4. The Bureau's *TRP Order*,[9] released concurrently with the *Virtual Collocation Order*, required LECs to file certain cost support data in connection with their rates for virtual collocation. For example, the Bureau directed the LECs to provide information regarding their overhead loadings for virtual collocation services and for comparable services. The Bureau specified that comparable services include all point-to-point DS1 and DS3 services.[10]

5. In conjunction with the *Virtual Collocation Order*, the Commission and the Tier 1 LECs entered into a letter agreement on August 9, 1994, to facilitate an orderly transition from the mandatory physical collocation scheme that had been in place to a mandatory virtual collocation scheme. Pursuant to the letter agreement, the Tier 1 LECs agreed to file interim virtual collocation tariffs on September 1, 1994, that were identical in substance to the permanent virtual collocation tariffs to be filed on that same date. The interim tariffs were designed to ensure the uninterrupted availability of tariffed expanded interconnection service during the period between the effective date of the interim virtual collocation tariffs and December 15, 1994, the date the permanent virtual collocation tariffs were to become effective.[11] On September 2, 1994, following a preliminary review of the LECs' interim virtual collocation tariffs, the Bureau concluded that these tariffs raised significant questions of lawfulness that warranted suspension for one day, investigation, and imposition of an accounting order.[12]

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7 *Virtual Collocation Order*, 9 FCC Rcd at 5156.

8 *Id.* at 5156, 5167-68.

9 Commission Requirements for Cost Support Material To Be Filed with Virtual Collocation Tariffs for Special Access and Switched Transport, Tariff Review Plan Order, 9 FCC Rcd 5679 (1994) (*TRP Order*).

10 *TRP Order*, 9 FCC Rcd at 5682-83. A point-to-point service provides a connection between the customer's premises (which, for an interexchange carrier, likely would be its point of presence) and another location (which may be another customer premises or a LEC central office.) A DS1 service is comprised of 24 voiceband channels with a transmission rate of 1.544 megabits per second; a DS3 service is comprised of 28 DS1s. For a discussion of comparable DS1 and DS3 services, *see* paras. 14-15, *infra*.

11 *See Virtual Collocation Tariff Suspension Order* at para. 6.

12 *See* Ameritech Operating Companies, *et al.*, CC Docket No. 94-97, Order, 9 FCC Rcd 5230 (Com. Car. Bur. 1994). In our subsequent *Virtual Collocation Tariff Suspension Order*, we consolidated our investigations of the interim and permanent virtual collocation tariffs. The Bureau noted that an upcoming order would designate specific issues for investigation relating to both sets of

6. On September 1, 1994, the LECs listed in Appendix A filed permanent virtual collocation tariffs and cost support data. In the *Virtual Collocation Tariff Suspension Order*, we focused our review of the permanent virtual collocation tariffs on the LECs' proposed overhead loadings and on Bell Atlantic's maintenance-related charges. Our concerns regarding these two issues are discussed below.

B. The LECs' Overhead Loadings

7. In the *Virtual Collocation Tariff Suspension Order*, the Bureau found that the LECs' level of overhead loadings[13] was a primary factor affecting the rates for virtual collocation. To determine whether the LECs had justified their proposed overhead loadings, we utilized the overhead loading standard set forth in the Commission's *Virtual Collocation Order* -- that if LECs do not use uniform overhead loadings in their rates for virtual collocation services, they must justify any deviations from uniform loadings. In other words, LECs may not recover a greater share of overheads in rates for virtual collocation services than they recover in rates for comparable services, absent justification.[14]

8. Our review of the record revealed that none of the LECs used uniform overhead loadings for all of their comparable DS1 and DS3 services. Moreover, we found substantial differences between the proposed loadings for expanded interconnection services and those currently applied to comparable services. The Bureau determined that the LECs had not attempted to show that these wide variations were due to differences in the overhead costs actually incurred by the individual services. Rather, it appeared that the great disparity in loadings primarily reflected market conditions; most LECs tended to assign low overheads in markets where they faced actual or potential competition from interconnection, and high overheads where they did not. In light of this practice, we concluded that most LECs' proposed overhead loadings appeared unreasonable.[15]

9. To prevent unreasonable discrimination against interconnectors seeking to compete in the local exchange market, the Bureau imposed an interim adjustment pending its further investigation of the LECs' proposed overhead loadings. We suspended, for a five-month period, that part of the LECs' rates that exceeded the lowest overhead loadings

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tariffs. *See Virtual Collocation Tariff Suspension Order* at para. 3.

[13] *Id.* at para. 16. An overhead loading is the percent by which a rate exceeds the direct cost for a particular service. To derive the overhead loading factor from this percentage, the rate is divided by the direct cost for each rate element of that service. An overhead loading of 80 percent, for example, is equivalent to an overhead loading factor of 1.80. *Id.* at note 29.

[14] *Virtual Collocation Order*, 9 FCC Rcd at 5189.

[15] *Virtual Collocation Tariff Suspension Order* at paras. 21-22.

assigned to the LECs' comparable DS1 and DS3 services.[16] We noted that our interim adjustments would extend to interconnectors the same treatment of overhead assignment that the LECs give their most favored DS1 or DS3 customers.[17] Although we did not partially suspend some LECs' rates because their overhead loadings appeared to comport with the Commission's overhead loading standard, we noted that we would examine all of the LECs' overhead loadings during our investigation.[18]

C. Bell Atlantic's Maintenance-Related Charges

10. The *Virtual Collocation Tariff Suspension Order* further concluded that even after the partial disallowance of Bell Atlantic's proposed overhead loadings, the total charge for Bell Atlantic's DS1 virtual collocation service appeared excessive due to its maintenance-related expenses.[19] To determine whether Bell Atlantic had justified its maintenance-related expenses, the Bureau compared the maintenance-related expense Bell Atlantic reported for its DS1 virtual collocation service with the maintenance-related expense Bell Atlantic attributed to its comparable DS1 electrical channel termination service.[20] Our analysis revealed that Bell Atlantic's maintenance-related expenses for DS1 virtual collocation service greatly exceeded those for its comparable service, even though the comparable service requires twice as much investment in the same type of equipment and facilities used for DS1 virtual

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16 *See id.* at para. 21-23. We noted that an "average overhead loading" standard would not be effective in thwarting anticompetitive behavior. We explained that if LECs used an average overhead loading for services provided to interconnectors and below-average loadings for LEC services with which interconnectors compete, the effect would be to hamper the ability of interconnectors to compete effectively. *Id.* at para. 23.

17 *Id.* at para. 27.

18 We also stated that the partial rate suspension may not completely resolve the issue of excessive overheads, and that LECs may be required to provide additional information in a subsequent Designation Order. *Id.* at para. 28.

19 *Id.* at para. 33. In general, maintenance is a recurring expense associated with keeping equipment in good operating condition. Maintenance expenses usually include engineering, supervision of maintenance staff, equipment testing, and other labor and materials incurred in the upkeep of a carrier's plant. In addition to maintenance expense, Bell Atlantic apparently incurs maintenance-related administrative expenses. Bell Atlantic estimates that, when maintaining interconnector-designated electronic equipment, these related administrative expenses exceed the direct maintenance expenses by eight percent. *See id.* at para. 29.

20 We note that Bell Atlantic reported the same level of maintenance-related expenses for all of its DS1 channel termination services.

collocation service.[21] We, therefore, estimated Bell Atlantic's maintenance expense for DS1 virtual collocation to be half of its maintenance expense for DS1 electrical channel termination service. Accordingly, the Bureau reduced Bell Atlantic's recovery of total maintenance expense to this level by partially suspending a portion of the maintenance and maintenance-related administrative expenses recovered through Bell Atlantic's DS1 connection service rate and cable support fee.[22]

III. ISSUES DESIGNATED FOR INVESTIGATION

The Bureau designates for investigation the rate level issues set forth below.

Issue A: Are the overhead loadings established in the LECs' virtual collocation tariffs justified?

1. In General

11. **Pleadings.** As summarized in the *Virtual Collocation Tariff Suspension Order*,[23] petitioners allege that the LECs have assigned higher overhead loadings to their virtual collocation rate elements than to rate elements associated with competitive DS1 and DS3 services offered to the LECs' end-user customers. Petitioners ask the Commission to prescribe reasonable overhead loadings, consistent with those reflected in comparable LEC services.[24] In addition, petitioners contend that most LECs assign a greater proportion of common costs to services used by interconnectors than to services used by the LECs' own end users, forcing the interconnectors to subsidize the LECs' services against which they compete.[25]

12. Generally, the LECs reply that their overhead loadings for virtual collocation services are lower than or comparable to the overhead loadings assigned to their high capacity offerings.[26] Ameritech denies that it is cross-subsidizing its other competitive

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[21] *Virtual Collocation Tariff Suspension Order* at paras. 34-36. Electrical channel termination service requires the LEC to provide the terminating multiplexer at the customer's premises, as well as at the central office. In addition, electrical channel termination service requires several miles of cable from the central office to the customer's premises. *Id.* at para. 34 & n.73.

[22] *Id.* at para. 37.

[23] *Id.* at para. 13.

[24] *See, e.g.*, MFS Petition at 14-15; Cablevision Petition at 2-3, 8-10.

[25] *See, e.g.*, MFS Petition at 13-14.

[26] *See, e.g.*, BellSouth Reply at 11.

services with expanded interconnection revenues.[27] Ameritech asserts that its noncompetitive services are priced at fully distributed cost, and its competitive services are priced in response to market demand. Ameritech also maintains that petitioners' comparisons do not take into account rate elements of comparable services that have overhead loadings similar to those used for interconnection.[28] SWB claims, *inter alia*, that it is not required to apply overhead loadings consistent with the lowest priced DS1 or DS3 services, or a particular DS1 or DS3 rate element, such as a channel termination. According to SWB, the amount of overhead in its proposed virtual collocation rates is no higher than the overhead reflected in comparable recurring rates.[29]

13. **Discussion.** As discussed above, our *Virtual Collocation Tariff Suspension Order* concluded, based on the record before the Bureau, that most of the LECs failed to justify their proposals to recover a greater share of overhead costs in their proposed charges for virtual collocation than they recover in charges for comparable services. We have reviewed the arguments of the parties and find that investigation of the LECs' proposed overhead loadings is warranted. To assist us in our investigation, we direct all LECs listed in Appendix A to provide the information detailed below.

2. Comparable Services

14. **Background**. In order to evaluate the LECs' proposed overhead loadings for expanded interconnection, the Bureau directed LECs to provide, on a service-by-service basis, overhead loadings for all "comparable services."[30] As discussed above, the Bureau stated that comparable services include all point-to-point DS1 and DS3 special access and switched transport services.[31] The Bureau determined that LECs offer these point-to-point services in two basic forms: (a) as a service providing channel termination without interoffice mileage, *i.e.*, a connection between the customer's premises and the nearest central office; and (b) as a service providing both channel termination and interoffice mileage, connecting the customer to an additional central office.[32]

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[27] Ameritech Reply at 7.

[28] *Id.* at 7-8.

[29] SWB Reply at 20; *see also* SWB's other arguments on this issue, summarized in *Virtual Collocation Tariff Suspension Order* at para. 15.

[30] *TRP Order*, 9 FCC Rcd at 5682-83; *Virtual Collocation Tariff Suspension Order* at paras. 17-18.

[31] All of these point-to-point services employ the same basic types of equipment in the LECs' central offices. They all require, for example, a central office entrance cable, an equipment bay containing an optical line terminating multiplexer, and a cross-connect.

[32] *See Virtual Collocation Tariff Suspension Order* at paras. 17-18.

15. The Bureau also stated that these comparable DS1 and DS3 services include the LECs' generic electrical or optical services, discounted volume and term services, and specialized service offerings, such as self-healing networks. The Bureau required the LECs to identify the overhead loadings applied to each of these services, and to provide the underlying cost data used in calculating the loadings.[33]

16. In addition to seeking overhead loading data, the *TRP Order* required LECs to submit direct cost studies for their point-to-point DS1 and DS3 services,[34] as well as the costing methodologies used to develop the direct costs.[35] Although the LECs generally provided direct cost data for their comparable DS1 and DS3 services, their submissions did not disaggregate investment amounts by service component.[36] Nor did the LECs provide the annual cost factors they applied to each unit investment component of their comparable DS1 and DS3 services to determine the amount of depreciation, cost of money, income taxes, maintenance expense, administrative expense, and other taxes for each comparable service.[37] The foregoing data are important because, to the extent virtual collocation facilities are similar to the comparable service facilities, LECs should use the same unit investment components and annual cost factors for both of these services.

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[33] *TRP Order*, 9 FCC Rcd at 5682-83.

[34] We noted that, at a minimum, these direct cost studies should identify unit investment and the costs directly assigned to those unit investments. These directly assignable costs include depreciation, cost of money, income taxes, maintenance expense, administrative expense, marketing expense, and other taxes. These costs are developed for particular services by first identifying the historical ratios between the annual expenses and unit investments, which LECs refer to as annual cost factors. The LECs then multiply the annual cost factors by unit investment to derive directly assignable cost amounts.

[35] In order to compare properly the overhead loadings of the virtual collocation services and the LECs' comparable DS1 and DS3 services, the Bureau sought to ensure that the LECs developed the direct costs for these services in the same manner. Otherwise, a cost classified as a direct cost under one methodology may be classified as an overhead cost under another methodology.

[36] The LECs generally reported a single unit investment amount for each service, rather than identifying the unit investment in circuit equipment, fiber, conduit, buildings, land, and other unit investment components. Bell Atlantic, for example, listed investment amounts for, *inter alia*, the DS1 and DS3 special access channel terminations offered to its most favored customers, but did not identify the investment amounts for the various facilities used in providing its channel termination services.

[37] The LECs, however, did submit the estimated levels resulting from these cost calculations.

17. **Information Requirement.** The Bureau requires the LECs subject to this investigation to provide the following information in their direct cases:[38]

(a) All LECs must comment on whether there are additional services that should be considered comparable services.[39] In particular, the LECs must address whether a promotional offering should be considered a comparable service.[40]

(b) All LECs must list all of their unit investment components, and all of the annual cost factors applied to those components, for the following four services: DS1 virtual collocation service; DS3 virtual collocation service; a comparable DS1 service with the lowest overhead loading; and a comparable DS3 service with the lowest overhead loading.[41] Unit investment components should include, but not be limited to, circuit equipment, fiber, conduit, buildings, and land. Annual cost factors should include, but not be limited to, depreciation, cost of money, income taxes, maintenance expense, administrative expense, marketing expense, and other taxes.

(c) All LECs must explain whether the annual cost factors were applied in the same manner to the investment components for the two virtual collocation services and the two comparable services. If the same factors were not used, LECs must explain the basis for the differences.

(d) All LECs must list the central office investment and cost components for each of the comparable DS1 and DS3 services identified in (b), above. In addition, LECs must determine and specify the central office investment and cost components for these two comparable services in a manner that parallels the

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[38] As a general matter, all parties to this proceeding are invited to comment on all requests for information in this Order.

[39] There may be other services that employ the same basic types of DS1 and DS3 level equipment in the LECs' central offices, and for which this equipment constitutes a substantial, if not predominant, share of the total cost of the service. *See* note 31, *supra*.

[40] LECs addressing the issues of promotional services should explain the criteria used to classify such services as "promotional." If a LEC concludes that a promotional service should not be considered a comparable service under some or all circumstances, it should specify the type of promotion that should be excluded and the reasons for such exclusion.

[41] The Bureau identified the lowest overhead loadings for comparable DS1 and DS3 services for most LECs in Appendix C to the *Virtual Collocation Tariff Suspension Order*. LECs may respond to the information request in paragraph 17(b) in chart form.

virtual collocation TRP "functions."[42] LECs also must describe in detail the function served by each of the investment components they identify for these comparable services.

(e) If a LEC concludes that any of the comparable services described in the *TRP Order*[43] should not be considered comparable, it should explain how the investment components of those services differ from the investment components of the corresponding DS1 or DS3 virtual collocation services. SWB, for example, must explain why it characterized its comparable DS1 and DS3 services that provide channel termination without interoffice mileage as "rate elements."[44]

(f) All LECs must submit current data detailing the percentage of DS1 and DS3 channel terminations that are sold without interoffice mileage. In calculating this percentage, LECs must include any DS1 and DS3 channel terminations that are sold in conjunction with a zero interoffice mileage charge.

3. Comparison of Overhead Loadings

18. **Background.** Most LECs maintain that the overhead loadings assigned to their virtual collocation services are below or comparable to the loadings assigned to their comparable services. It appears, however, that most of these LECs developed their overhead loadings for virtual collocation services based on an *average* of the overhead loadings for their comparable DS1 and DS3 services. Ameritech, for example, appears to have based the overhead loading for its virtual collocation service on an average of the overhead loadings for its special access category as a whole.[45] SWB claims that, because the overhead loadings reflected in virtual collocation rate elements may not exceed those contained in comparable LEC services, the average overhead loading reflected in all DS1 and DS3 elements effectively becomes the overhead ceiling on collocation elements.[46]

19. **Information Requirement**. The Bureau requires the LECs to explain in their direct cases how the public interest goal of fostering efficient competition in markets for local telecommunications services is advanced if LECs use average overhead loadings for

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[42] For a description of these TRP functions, *see TRP Order*, 9 FCC Rcd at 5680-81. LECs may submit these data in the TRP format that is appended to the *TRP Order*.

[43] *See id.* at 5682.

[44] *See* SWB Reply at 20.

[45] Ameritech Reply at 6-7.

[46] SWB Reply at 21.

virtual collocation services provided to competitors and below-average loadings for service provided to their own end users.[47]

4. Rate Elements Common to DS1 and DS3 Virtual Collocation Services

20. **Background.** In the *Virtual Collocation Tariff Suspension Order*, the Bureau ordered adjustments that would extend to interconnectors the same treatment of overhead assignment that the LECs give their most favored DS1 or DS3 customers.[48] Specifically, we directed the LECs to adjust the rate for each element dedicated to DS1 level virtual collocation services to reflect the lowest overhead loadings assigned to the LECs' comparable DS1 services, and to adjust the rate for each element dedicated to DS3 level virtual collocation services to reflect the lowest overhead loadings assigned to the LECs' comparable DS3 services.[49]

21. We also directed the LECs to adjust the rate for each element that may be used with either DS1 or DS3 level virtual collocation services to reflect the lowest overhead loadings assigned to any comparable service, regardless of whether the service is provided at the DS1 or DS3 level. The Bureau considered a rate element nondedicated if it potentially may be used with either DS1 or DS3 level cross-connects. To illustrate, the Bureau stated that a rate element for termination facilities is nondedicated if interconnectors might want to acquire it together with DS1 or DS3 level cross-connects.[50]

22. **Information Requirement.** To examine the LECs' virtual collocation rate elements that may be used with either DS1 or DS3 level cross-connects, the Bureau requires all LECs to list the virtual collocation rate elements they treated as nondedicated in their tariff revisions filed pursuant to the *Virtual Collocation Tariff Suspension Order*.

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[47] In the *Virtual Collocation Tariff Suspension Order*, the Bureau concluded that LECs appear to assign high overheads to LEC facilities upon which interconnectors rely to provide competitive services, and low overheads to the services against which interconnectors compete. *See Virtual Collocation Tariff Suspension Order* at paras. 21-22.

[48] *Id.* at para. 27.

[49] *Id.* at paras. 25-26. We explained that a rate element is dedicated to DS1 or DS3 expanded interconnection services if interconnectors would only purchase that element to provide services to customers at the DS1 or DS3 level, respectively. Because the transmission level of the cross-connects determines whether the expanded interconnection service can accommodate services to customers at the DS1 or DS3 level, we considered a rate element dedicated to DS1 or DS3 level interconnection if it would only be acquired together with DS1 or DS3 level cross-connects, respectively. *Id.* at para. 26.

[50] *Id.*

5. Overhead Loadings On Nonrecurring Charges

23. **Background.** Nonrecurring charges generally recover one-time labor costs or one-time capital outlays. Several LECs, including Bell Atlantic, SWB, and US West, propose to assign overhead loadings to nonrecurring charges associated with virtual collocation services.

24. **Information Requirement.** The Bureau requires Bell Atlantic, SWB, US West, and any other LEC proposing to recover overhead loadings from nonrecurring charges associated with virtual collocation services to provide the following information in their direct cases:

(a) LECs must explain why it is reasonable to assign overhead loadings to nonrecurring charges associated with virtual collocation services.

(b) LECs must identify the term of service that was assumed in developing the overhead loadings assigned to nonrecurring charges associated with virtual collocation services.

(c) LECs must explain why it is reasonable that their virtual collocation tariffs apparently contain no provisions for refunds of overhead contributions in the event interconnectors discontinue service before completion of the term of service on which the assignment of overhead costs was based.

(d) LECs must explain whether overhead loadings are recovered through any nonrecurring charges associated with comparable DS1 and DS3 services. If so, these charges must be identified. If not, LECs must explain why the treatment of overhead loadings on comparable services differs in this respect from that for virtual collocation services.

6. Bell Atlantic's DS3 Cross-Connect Rate Element

25. **Background.** In Section 19.6 of its virtual collocation tariff, Bell Atlantic states that the nonrecurring charge for installation of a DS3 cross-connect is set forth in Section 7.5.9 of Bell Atlantic's special access tariff. That section specifies an $1,800 charge that would apply to installation of all DS3 channel termination services. Interconnectors are assessed additional nonrecurring charges totaling $8,316 in conjunction with installation of virtual collocation service.[51]

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[51] Elsewhere in its virtual collocation tariff, Bell Atlantic enumerates charges of $2,227 for design and planning, $5,592 for equipment installation, and $497 for cable installation.

26. In the *Virtual Collocation Tariff Suspension Order*, the Bureau used the lowest loading on a comparable DS3 service to adjust Bell Atlantic's DS3 virtual collocation cross-connect installation nonrecurring charge. The Bureau identified Bell Atlantic's DS3 special access electrical channel termination service (five-year term plan) as a comparable DS3 service with the lowest overhead loading.[52] In its cost support submission, Bell Atlantic stated that the overhead loading for this comparable service is 23 percent, but did not specify whether that particular loading is included only in recurring charges or also in the $1,800 nonrecurring installation charge imposed on all DS3 channel termination services.

27. Bell Atlantic, however, subsequently stated in an *ex parte* submission that the Bureau should not have adjusted its $1,800 DS3 cross-connect nonrecurring charge with this 23 percent overhead loading. According to Bell Atlantic, the 23 percent loading does not apply to the $1,800 nonrecurring installation charge imposed on all DS3 channel termination services.[53]

28. **Information Requirement.** The Bureau requires Bell Atlantic to provide the following information in its direct case:

(a) Bell Atlantic must explain why its virtual collocation tariff imposes an $1,800 nonrecurring charge for complete installation of a comparable DS3 special access channel termination service, but requires interconnectors to pay additional nonrecurring charges in conjunction with the installation of virtual collocation services. Bell Atlantic must specify the additional tasks and associated costs that justify the additional nonrecurring charges it imposes in conjunction with virtual collocation services.

(b) Bell Atlantic must submit data showing the overhead loadings and direct cost studies for all of the nonrecurring charges associated with its comparable DS1 and DS3 services.[54] Such data must be provided at the same level of detail that is required for recurring charges.

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[52] *See* Bell Atlantic Tariff Review Plan, Exhibit 7 at 6.

[53] *See ex parte* letter from Joseph J. Mulieri, Bell Atlantic to Tariff Division, Jan. 17, 1995.

[54] In light of these additional data, the Bureau may now determine that it did not initially select the comparable Bell Atlantic DS1 and DS3 services with the lowest overhead loadings.

Issue B: **Are Bell Atlantic's maintenance-related charges justified?**

1. In General

29. **Pleadings.** As summarized in the *Virtual Collocation Tariff Suspension Order*,[55] Teleport contends that Bell Atlantic's monthly recurring charges for maintenance of interconnector-designated equipment are excessive. Teleport claims that it is unclear whether these charges cover labor, equipment, or both.[56] MFS alleges that Bell Atlantic's DS1 connection service charge, which should cover only the cost of maintaining the interconnector-designated termination equipment, improperly exceeds Bell Atlantic's reported expense for maintaining an entire channel termination.[57] In reply, Bell Atlantic claims that MFS improperly compared Bell Atlantic's rate for connection service to its maintenance expense for a channel termination.[58]

30. **Discussion.** As discussed above, the Bureau concluded in the *Virtual Collocation Tariff Suspension Order* that Bell Atlantic's maintenance-related charges associated with its DS1 virtual collocation service appeared excessive. We have reviewed the arguments of the parties and find that investigation of Bell Atlantic's maintenance-related charges for both DS1 and DS3 virtual collocation services is warranted. To assist us in our resolution of the issue of whether the level of these proposed charges is justified, we direct Bell Atlantic to provide the information detailed below.

2. Maintenance-Related Administrative Expenses

31. **Background.** Bell Atlantic apparently incurs "maintenance-related" administrative expenses when maintaining interconnector-designated equipment. Bell Atlantic estimated that these related administrative expenses exceeded its "direct" maintenance expenses by eight percent.[59]

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[55] *Virtual Collocation Tariff Suspension Order* at para. 30.

[56] Teleport Petition, App. A, Item 4 at 1.

[57] MFS Petition at 24-25.

[58] Bell Atlantic Reply at 5-6. Bell Atlantic further asserts that although it proposed a flat maintenance charge in order to provide interconnectors with certainty, it is willing to modify its tariff to offer maintenance of dedicated equipment on a time and materials basis for an "interim period." *Id.* at 2. Bell Atlantic, however, has not made any such tariff modifications.

[59] *Virtual Collocation Tariff Suspension Order* at para. 29.

32. **Information Requirement**. The Bureau requires Bell Atlantic to provide the following information in its direct case:

(a) Bell Atlantic must identify and describe each cost it intends to recover through its "maintenance-related" administrative charges for both DS1 and DS3 virtual collocation service.

(b) Bell Atlantic must identify and explain the specific functions that are involved in administering the maintenance of interconnector-designated equipment.

(c) Bell Atlantic must explain the relationship of its "maintenance-related" administrative costs to the maintenance activities of its equipment vendors, and the degree to which Bell Atlantic's administration of the maintenance process duplicates such vendor activities.

(d) Bell Atlantic must explain why the expense of administering the equipment maintenance process exceeds the direct expense of maintaining the interconnector-designated equipment.

(e) Bell Atlantic must also explain why more than 95 percent of recurring administrative expenses are attributed to maintenance.

3. Surrogate Equipment

33. **Background.** Because Bell Atlantic purchases transmission equipment from the interconnector for a nominal amount, Bell Atlantic developed an investment amount for "surrogate equipment" to serve as a basis for calculating maintenance expense for DS1 and DS3 virtual collocation services. Bell Atlantic derived this surrogate investment amount by estimating the "average investment expense for transmission equipment."[60] According to Bell Atlantic, it applied to its surrogate investment amount "only the maintenance and administration portion of the operating expense annual cost factors."[61]

34. **Information Requirement**. The Bureau requires Bell Atlantic to provide the following information in its direct case:

(a) Bell Atlantic must explain in detail the calculation of its surrogate investment expense. In particular, Bell Atlantic must discuss whether the "average investment expense" reflects the average of the purchase prices of representative transmission equipment currently used in Bell Atlantic's central offices, the average of the purchase prices of equipment requested by

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[60] Bell Atlantic Description and Justification at 7.

[61] *Id.*

interconnectors, or some other value. Bell Atlantic must also provide the data used to compute its average investment expense.

(b) Bell Atlantic must address whether the operating expense annual cost factors it applied to its surrogate investment for virtual collocation transmission equipment are the same annual cost factors applied to equipment used for Bell Atlantic's comparable DS1 and DS3 services. If the annual cost factors differ, Bell Atlantic must explain the reason for the differences.

4. Comparison of Maintenance-Related Expenses

35. **Background**. As discussed above, the *Virtual Collocation Tariff Suspension Order* concluded that Bell Atlantic's maintenance-related expenses for DS1 virtual collocation service greatly exceed those for its comparable DS1 electrical channel termination service, even though the comparable service required twice as much investment in the same type of equipment and facilities used for DS1 virtual collocation service.[62]

36. **Information Requirement**. The Bureau requires Bell Atlantic to provide the following information in its direct case:

(a) Bell Atlantic must explain why the maintenance-related expenses for its DS1 virtual collocation service exceed the maintenance-related expenses attributed to its comparable DS1 electrical channel termination service.

(b) Bell Atlantic must specify in detail the equipment and facilities used for its DS1 electrical channel termination service and explain any significant differences between this equipment and that used for DS1 virtual collocation services.

(c) Bell Atlantic must provide the investment amount and related expenses for all equipment and facilities listed in response to section (b), above.

(d) Bell Atlantic must provide responses to sections (a) through (c), above, with respect to the maintenance-related expenses attributed to its comparable DS3 electrical and optical channel termination services.[63]

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[62] *Virtual Collocation Tariff Suspension Order* at para. 34 & n.73.

[63] Our request for data on DS1 channel termination services in paragraph 35(a), *supra*, is limited to services with electrical termination because Bell Atlantic does not provide optical termination for DS1 level services.

IV. PROCEDURAL MATTERS

A. Clarification of Accounting Order Imposed in Virtual Collocation Tariff Suspension Order

1. Background

37. In a December 15, 1994 *ex parte* letter to the Chief, Common Carrier Bureau, Bell Atlantic maintains that the *Virtual Collocation Tariff Suspension Order* does not clarify the "scope of protections" provided by the Bureau's accounting order.[64] In particular, Bell Atlantic contends that the *Virtual Collocation Tariff Suspension Order* does not specify whether the Bureau's partial suspension is subject to a "two-way adjustment mechanism" that would permit either customer refunds or carrier recoupment if the final prescribed rates differ from those in effect during the five-month suspension period. Bell Atlantic notes that the Commission explicitly provided such a mechanism in an earlier order in the physical collocation proceeding,[65] and contends that, "given the extreme nature of the interim reductions specified in the *Virtual Collocation Tariff Suspension Order*, at least some of which is excessive, it is assumed that the same mechanism is in effect in this proceeding." Alternatively, Bell Atlantic requests that the Bureau clarify that the two-way mechanism is in effect in the virtual collocation tariff proceeding.[66]

2. Discussion

38. The *Virtual Collocation Tariff Suspension Order* did not establish a two-way adjustment mechanism in conjunction with the partial suspension of the LECs' permanent virtual collocation tariffs. Neither the text nor the ordering clauses of the *Virtual Collocation Tariff Suspension Order* indicate that the accounting order we imposed therein is to function as a two-way adjustment mechanism. That Order stated only that the Bureau partially suspended the LECs' virtual collocation rates for five months under the authority of Section 204(a), and imposed an accounting order pursuant to Sections 204(a) and 4(i) of the Act, 47 U.S.C. §§ 204(a) and 154(i). By contrast, the *Special Access Physical Collocation Interim Overhead Order* explicitly stated that the Commission's interim prescription was subject to

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[64] *Ex parte* Letter from Joseph J. Mulieri, Bell Atlantic, to Kathleen M.H. Wallman, Chief, Common Carrier Bureau, Dec. 15, 1994 (Bell Atlantic Letter).

[65] Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection for Special Access, First Report and Order, 8 FCC Rcd 8344 (1993) *(Special Access Physical Collocation Interim Overhead Order)*.

[66] Bell Atlantic Letter at 2.

adjustment in either direction at the conclusion of the physical collocation tariff investigation.[67]

39. The circumstances that prompted the Commission to establish a two-way adjustment mechanism in the physical collocation tariff proceeding are not present here. In the *Special Access Physical Collocation Interim Overhead Order*, the Commission exercised its Section 4(i) discretionary authority to impose an interim prescription *beyond* the Section 204(a) five-month suspension period.[68] The Commission was concerned that, absent an interim prescription, the expected benefits of expanded interconnection would be delayed during the remainder of the tariff investigation.[69] Given the need for further investigation of the LECs' overhead loadings beyond the suspension period, the Commission stated that its interim prescription would be subject to adjustment in either direction at the conclusion of the Commission's investigation.[70]

40. By contrast, in this tariff proceeding, the Bureau exercised its Section 204(a) suspension power to establish interim rates that will be in effect for a maximum of only five months -- a far shorter period than present in the physical collocation proceeding described above. In authorizing the suspension of carriers' tariffs in whole or in part pending completion of the investigation of the rates, the Act contemplates that a carrier will not receive all the revenues that it otherwise would have collected during the five-month suspension period specified by Section 204(a).[71] In view of this statutory scheme, we would not expect to use our discretionary authority under Section 4(i) of the Act to permit carriers to recoup revenues at the end of a five-month suspension period, absent unusual circumstances. Accordingly, we declined to exercise our discretion under Section 4(i) to establish a two-way accounting order in this proceeding.

B. Filing Schedules and Procedures

41. This investigation will be conducted as a notice and comment proceeding to which the procedures set forth in this Order shall apply. The LECs listed in Appendix A to this Order are designated as parties. These LECs must file their direct cases addressing each issue designated above no later than March 21, 1995.

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[67] *Special Access Physical Collocation Interim Overhead Order*, 8 FCC Rcd at 8362.

[68] *Id.*

[69] *Id.*

[70] Specifically, the Commission stated that its two-way adjustment mechanism would provide an opportunity for interconnectors to receive refunds if the Commission later determines that the interim rates are unreasonably high. Conversely, the arrangement would provide an opportunity for carrier recoupment if the Commission later determines that the interim rates are below a just and reasonable level. *Id.*

[71] *Cf.* F.P.C. v. Tennessee Gas Transmission Co., 371 U.S. 145, 152 (1962).

42. Pleadings responding to direct cases may be filed no later than April 4, 1995, and must be captioned "Opposition to Direct Case" or "Comments on Direct Case." The LECs may each file a "Rebuttal" to oppositions or comments no later than April 11, 1995.

43. An original and seven copies of all pleadings must be filed with the Secretary of the Commission. In addition, one copy must be delivered to the Commission's commercial copying firm, International Transcription Service, Room 246, 1919 M Street, N.W., Washington, D.C. 20554. Also, one copy must be delivered to the Tariff Division, Room 518, 1919 M Street, N.W., Washington, D.C. 20554. Members of the general public who wish to express their views in an informal manner regarding the issues in this investigation may do so by submitting one copy of their comments to the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. Such comments should specify the docket number of this investigation.

44. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission may take into account information and ideas not contained in pleadings, provided that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of reliance on such information is noted in the order.

C. *Ex Parte* Requirements

45. *Ex parte* contacts (*i.e.*, written or oral communications that address the procedural or substantive merits of the proceeding which are directed to any member, officer, or employee of the Commission who may reasonably be expected to be involved in the decisional process in this proceeding) are permitted in this proceeding until the commencement of the Sunshine Agenda period. The Sunshine Agenda period terminates when a final order is released and the final Order is issued. Written *ex parte* contacts and memoranda summarizing oral *ex parte* contacts must be filed on the day of the presentation with the Secretary and Commission employees receiving each presentation. For other requirements, see generally Section 1.1200 *et seq.* of the Commission's Rules, 47 C.F.R. §§ 1.1200 *et seq.*

D. **Paperwork Reduction Act**

46. The collection of information in this Phase I Designation Order is not subject to the provisions of Section 3507 of the Paperwork Reduction Act of 1980, as amended.

V. ORDERING CLAUSES

47. IT IS ORDERED that, pursuant to Sections 4(i), 4(j), 201(b), 203(c), 204(a), 205, and 403 of the Act, 47 U.S.C. §§ 154(i), 154(j), 201(b), 203(c), 204(a), 205, and 403, the issues set forth in this Order ARE DESIGNATED FOR INVESTIGATION.

48. IT IS FURTHER ORDERED that the local exchange carriers listed in Appendix A of this Order SHALL BE parties to this proceeding.

49. IT IS FURTHER ORDERED that each local exchange carrier that is a party to this proceeding SHALL INCLUDE, in its direct case, a response to each request for information that it is required to answer in this Order.

FEDERAL COMMUNICATIONS COMMISSION

A. Richard Metzger, Jr.

A. Richard Metzger, Jr.
Acting Deputy Chief, Operations
Common Carrier Bureau

APPENDIX A

LECs Filing Permanent Virtual Collocation Tariffs

Ameritech Operating Companies (Ameritech)
Bell Atlantic Telephone Companies (Bell Atlantic)
BellSouth Telecommunications, Inc. (BellSouth)
Cincinnati Bell Telephone Companies (CBT)
GTE System Telephone Companies (GSTC)*
GTE Telephone Operating Companies (GTOC)*
Southwestern Bell Telephone Company (SWB)
United and Central Telephone Companies (United)
US West Communications, Inc. (US West)

* GTOC and GSTC are referred to collectively as GTE.

APPENDIX B

Parties Filing Petitions to Reject or Suspend and Investigate and the LECs Against Which They Filed[72]

Association for Local Telecommunications Services (ALTS)
(Ameritech, Bell Atlantic, BellSouth, SWB, US West)

Cablevision Lightpath, Inc. (Cablevision)
(Ameritech, Bell Atlantic)

Jones Lightwave, Ltd. (Jones)
(US West)

MCI Communications Corporation (MCI)
(Ameritech, Bell Atlantic, BellSouth, CBT, GTE, SWB, United, US West)

McLeod Telemanagement, Inc. (McLeod)
(US West)

MFS Communications Company, Inc. (MFS)
(Ameritech, Bell Atlantic, BellSouth, CBT, GTE, SWB, United, US West)

Teleport Communications Group, Inc. (Teleport)
(Ameritech, Bell Atlantic, BellSouth, GTE, SWB, US West)

Time Warner Communications Holdings, Inc.
(Ameritech, Bell Atlantic, BellSouth, CBT, GTE, SWB, United, US West)

[72] Each LEC listed in Appendix A filed an opposition to the petition(s) to reject or suspend and investigate filed against it.